

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

**12.667 ACRES, MORE OR LESS,
LOCATED IN HANCOCK COUNTY,
STATE OF MISSISSIPPI; ANDREW
CRAIG FRANKLIN A/K/A CRAIG
A. FRANKLIN; JANICE LYNN
FRANKLIN A/K/A JANICE LYNN
WYLIE; DAVID MARK FRANKLIN;
JACQUELINE E. FRANKLIN;
UNKNOWN HEIRS AND/OR
DEWISEES OF BONNIE KELLAR
FRANKLIN; UNKNOWN HEIRS AND/
OR DEWISEES OF A.L. FRANKLIN
A/K/A ANDREW L. FRANKLIN;
UNKNOWN HEIRS AND/OR
DEWISEES OF JUANITA KELLAR
SCHULL; HANCOCK COUNTY,
MISSISSIPPI JIMMIE LADNER, JR.
TAX ASSESSOR; ET AL.**

Defendants.

CIVIL ACTION NO. 1:19cv550LG-RHW

COMPLAINT IN CONDEMNATION [with Declaration of Taking]

1. This is a civil action brought by the United States of America at the request of the Secretary of the Navy through the Deputy Assistant Secretary for Energy, Installations and Environment, for the taking of property under the power of eminent domain through a Declaration of Taking and for the determination and award of just compensation to the owners and parties in interest.

2. This Court has jurisdiction over all relevant matters in the case as provided by 28 U.S.C. § 1358.

3. The authority for the acquisition of the estate in property taken is set forth in Schedule “A,” attached hereto and made a part hereof.

4. The public purpose for which the property is taken is set forth in Schedule “B,” attached hereto and made a part hereof.

5. A legal description of the land and interests being taken are set forth in Schedule “C,” attached hereto and made a part hereof.

6. The plat showing the land taken is set forth in Schedule “D,” attached hereto and made a part hereof.

7. The estate taken in the property is set forth in Schedule “E,” attached hereto and made a part hereof.

8. The amount estimated to be just compensation for the taking is set forth in Schedule “F,” attached hereto and made a part hereof.

9. The persons who may have or claim a purported interest in the property and whose names are known are listed in Schedule “G,” attached hereto and made a part hereof.

WHEREFORE, Plaintiff demands judgment that the property and interests be condemned, and that just compensation for the taking be ascertained, and such other relief as may be lawful and proper.

DATED: August 29, 2019

D. Michael Hurst, Jr.
United States Attorney

By: Emily S. Nobile
Assistant United States Attorney
1575 20th Avenue
Gulfport, Mississippi 39501

emily.nobile@usdoj.gov
(228) 563-1560
Mississippi Bar No. 101475

By: /s/ Bhavna Changrani
Trial Attorney
U.S. Department of Justice
Environment and Natural Resources Division
Land Acquisition Section
P.O. Box 7611, Ben Franklin Station
Washington, DC 20044-7611
Telephone: (202) 305-0304
Facsimile: (202) 353-7763
Email: bhavna.changrani@usdoj.gov

Attorneys for Plaintiff United States of America

SCHEDULE A

AUTHORITY FOR TAKING

This taking is filed pursuant to 40 U.S.C. § 3113; 40 U.S.C. § 3114; 10 U.S.C. § 2663(a)(1)(A); the National Defense Authorization Act for Fiscal Year 2015, P.L. 113-291 §§ 2201 and 4601 at 128 Stat. 3794, which authorized Military Construction Project 240, allowing for the acquisition of land; the Consolidated and Further Continuing Appropriations Act, 2015 P.L. 113-235, which appropriated funds.

The authority granted to the Secretary of the Navy in 10 U.S.C. § 2663(a)(1)(A) was delegated to the Assistant Secretary of the Navy (Energy, Installations, and Environment) (ASN (EI&E)) in SECNAVINST 5430.7R, dated 3 January 2017. This authority was further delegated from ASN (EI&E) to the Deputy Assistant Secretary of the Navy (Installations and Facilities) (DASN (I&F)) in an ASN (EI&E) memo, dated 27 March 2017.

SCHEDULE B

PUBLIC PURPOSE

The lands described in Schedule C are taken for the public purpose of national defense and military use by the United States as authorized by law, including, but not limited to, incorporation into the Western Maneuver Area, which is used for ground combat training by the Naval Special Warfare Command.

SCHEDULE C

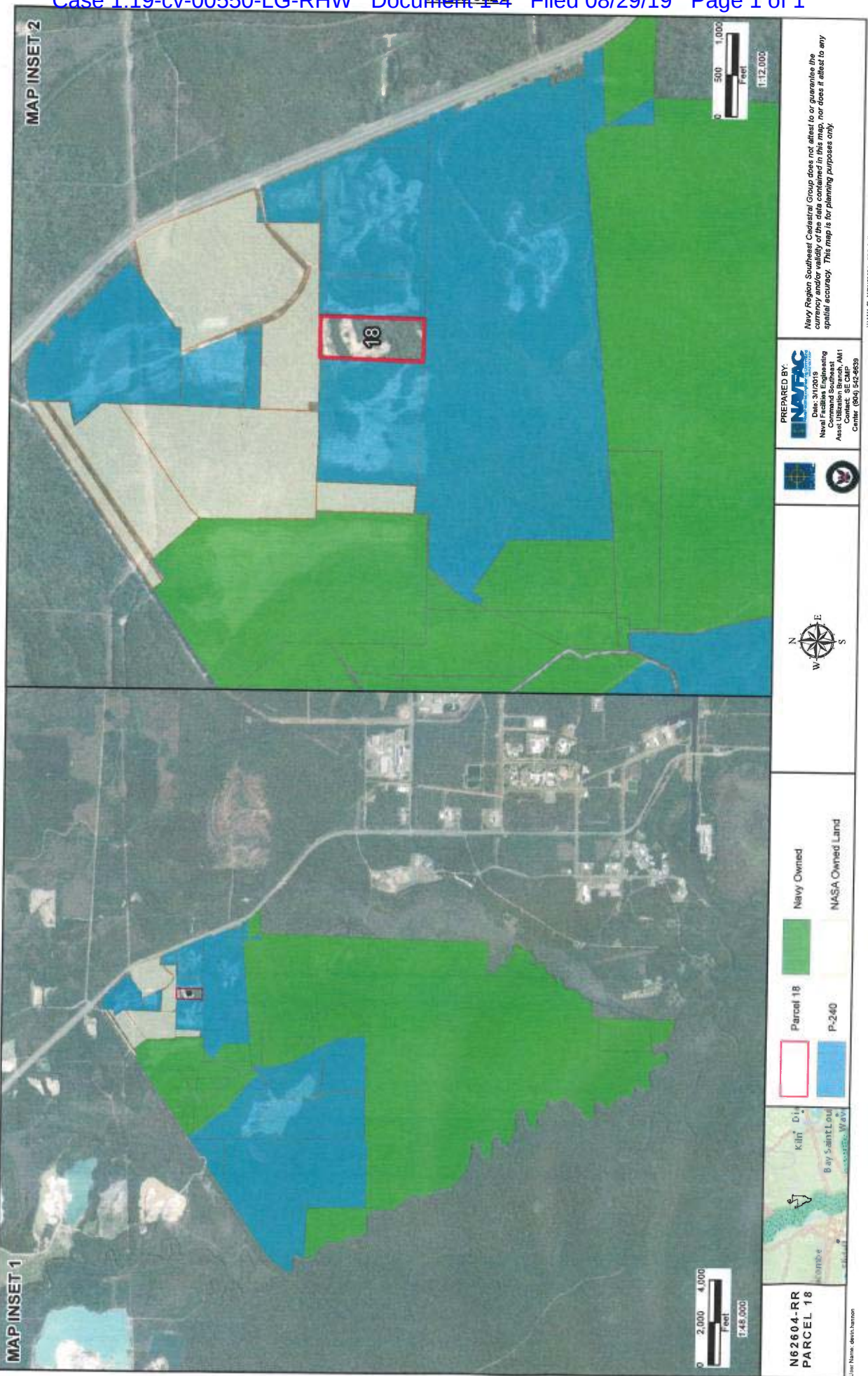
LEGAL DESCRIPTION OF PROPERTY

A parcel of land situated in Section 30, (John Shave Claim), Township 7 South, Range 16 West, Hancock County, Mississippi, and being more particularly described as follows:

COMMENCING at a concrete monument found with disk at the northwest corner of said Section 30, Township 7 South, Range 16 West, Hancock County, Mississippi, said monument having the following state plane coordinates (MS EAST zone, NAD83 in feet): Northing 334779.34, Easting 727585.01; thence along the north line of said Section 30, also being the south line of property the United States of America as per deed book Q-1 on page 519, S89°00'18"E 54.59' to a concrete monument found; thence further along said north line of Section 30 and south line of said property of the United States of America, S88°48'04"E 478.07' to a 1/2" rebar set at the POINT OF BEGINNING, having the following state plane coordinates: Northing 334768.39, Easting 728117.55; thence further along said north line of Section 30 and the south line of said property of the United States of America, S88°48'04"E 417.10' to an iron pipe with disk set at the northwest corner of property of James H. Thigpen as per deed book BB117 on page 281; thence along the west line of said property of James H. Thigpen, S00°44'53"W 1324.16' to a 1/2" rebar set on the south line of Section 30 and the southwest corner of said property of James H. Thigpen; thence along the south line of Section 30, also being the north line of property of Bond and others as per deed book 2006 on page 15146, N88°57'24"W 415.94' to a 1/2" rebar set at the southeast corner of property of James Hubert Thigpen as per deed book BB117 on pages 289-295; thence along the east line of said property of James Hubert Thigpen, N00°41'54"E 1325.30' to the POINT OF BEGINNING, containing 551,760.41 square feet or 12.667 acres. Herein described bearings are based on state plane grid north. Herein described property being a portion of that property as

described in deed book BB43 on page 543 of the land records of Hancock County, Mississippi and being designated as county parcel number 084-0-30-008.000.

Herein described property is also shown as “Parcel 18” in Schedule D.



MCN. #	Nothing	Existing	Description
4012	343766.50	728117.50	12" REBAR SET WITH CAP. SEE MONUMENTS SET NOTE TO THE RIGHT
4013	343777.00	727701.48	12" REBAR SET WITH CAP. SEE MONUMENTS SET NOTE TO THE RIGHT
4018	333445.18	728101.40	12" REBAR SET WITH CAP. SEE MONUMENTS SET NOTE TO THE RIGHT
4036	343759.66	728354.56	NAVY MONUMENT. SEE MONUMENTS SET NOTE TO THE RIGHT
4037	343438.61	726617.27	12" REBAR SET WITH CAP. SEE MONUMENTS SET NOTE TO THE RIGHT
8027	343759.50	727639.59	7" DIA. CAP WITH DIRM CORNERS OF ENGINEERS. U.S. ARMY. 8-14-75. EARTH. 12" ABOVE GRADE. POOR CONDITION
8038	343794.34	727585.01	9" DIA. CONC. "SHEDDING ENGINEERING PL. #2098. 15.50. 2003. 2007. ABOVE GRADE. GOOD CONDITION

MONUMENTS SET BY
CLIFFORD A. CROSBY

NAVY MONUMENT SET (TYPICAL):
30" FLARED END X 2.25" OUTSIDE
DIAMETER WITH 3.25" BRASS DISK
STAMPED "DEPT. OF NAVY
BOUNDARY, CROSBY PLS 2539,
SET IN 2015, NAVFACNGCOM SE",
5 FEET +/- TALL T-POST SET
BEHIND AS GUARD POST, DISK SET
AT EXISTING GRADE LEVEL

DEED REFERENCES ON PLAT:

(R1) - BOOK BB43, PAGE 543
(R2) - BOOK E8, PAGE 235

LEGEND:

- ①-IRON ROD FOUND
- ②-IRON PIPE FOUND
- ③-12" REBAR WITH RED PLASTIC CAP
- ④-STAMPED "CROSBY PLUS 2539", TOP SIDE
- ⑤-TO GROUND LEVEL
- ⑥-SPRINKLER OR MAG LAMP SET
- ⑦-CONCRETE MONUMENT FOUND
- ⑧-NAVY MONUMENT SET, DISK ON 1"
- ⑨-TO GROUND LEVEL
- ⑩-PIPE AS PER SPECIFICATIONS
- ⑪-LIGHTED KNOT FOUND
- ⑫-ANGLE IRON FOUND
- ⑬-RIGHT OF WAY MARKER FOUND
- ⑭-T-POST FOUND
- ⑮-CALCULATED
- (M)-MEASURED
- (R)-RECORD
- D.B.-POINT OF BEGINNING
- C.O.-POINT OF COMMENCEMENT
- (W)-RIGHT-OF-WAY
- ①-SQUARE
- ②-CONCRETE MONUMENT FOUND
- ③-DIAMETER
- ④-MONUMENT
- ⑤-12" IR. 12" REBAR SET
- ⑥-LOCAL
- ⑦-GOVERNMENT LAND OFFICE SURVEY TOWNSHIP PLATS
- ⑧-MINED AREAS

RECORDED EASEMENTS PROVIDED
WITH ABSTRACTOR'S REPORT:

NO RECORDED EASEMENTS AS PER
SCHEDULE B SECTION II OF THE TITLE
COMMITMENT APPLICABLE TO SURVEY

REFERENCE MATERIAL

BB137, PAGES 352-353, BB17, PAGES 483-484, PAGES 286-295, E7, PAGES 277-278, 2050, P, BB43, PAGE 543, BB117, PAGE 281; E8, PAGE PAGE 3; AA81, PAGE 162; Q-1, PAGE 519

DATED OCTOBER 22, 2014, BY III
MANNINO, PERESICH & MCDERMOTT

ABSTRACTOR'S REPORT WITH SUPPORTING
RECORDED INSTRUMENTS PROVIDED BY N
SURVEY BY CLIFFORD A. CROSBY, PLS NO.
STATE AID PROJECT STP-1126(1)B RIGHT O
STATE AID PROJECT SP-43-6(2) PLANS

STATE AID PROJECT MDA-1125-0
SURVEY OF U.S.A. PROPERTY BY

ENGINEERING, DONE IN 2007

GOOGLE EARTH PRO ONLINE MAPPING, DIO
QUADRANGLE MAPS

HANCOCK COUNTY TAX AND OWNERSHIP M
HANCOCK COUNTY GIS INTERACTIVE MAP,
PHOTOS

RECORD GOVERNMENT LAND OF
TOWNSHIP PLAT DATED 1880-1890

DATE OF FIELD SURVEY:
OCTOBER 2014 THROUGH SEPTEMBER 30,

SWORN CHAIN CARRIERS

**DILLON MCBRIDE, CHANCE CAMPBELL, TY
JORDAN ROBERTS AND PRESTON EMMON**

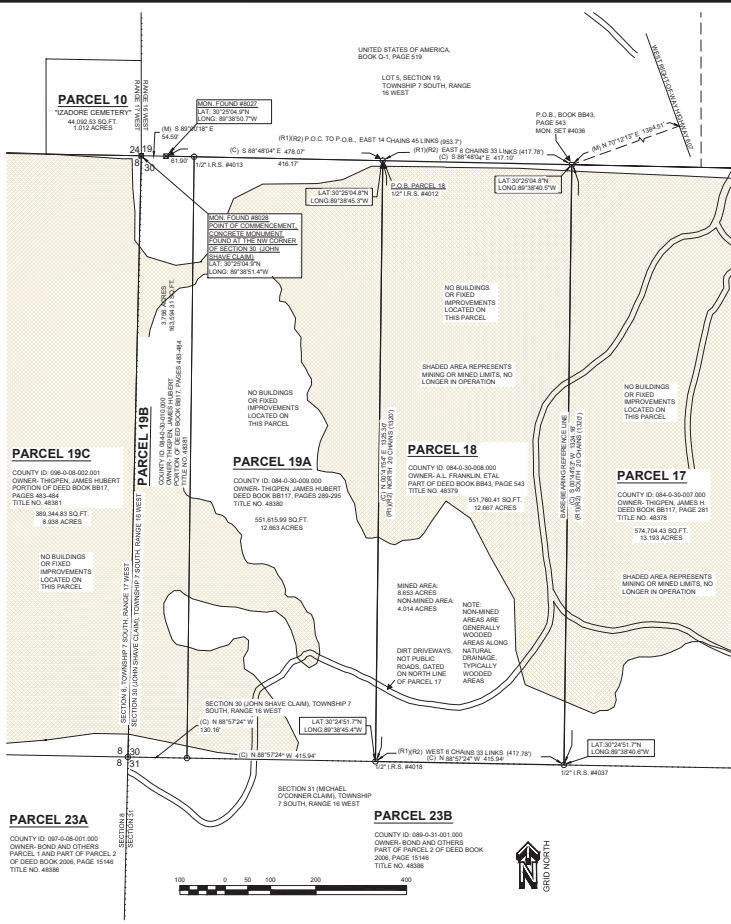
PROFESSIONAL
716 LIVE OAK DR.
BR. OAK, MISSISSAUGA

CLIFFORD CROSBY
PHONE: 228-234-1549
EMAIL: cliffordcrosby@cableone.net

NOTE:
THIS SURVEY AND PLAT IS
WITHOUT ORIGINAL SIGNA
RAISED SEAL.

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SCHEDULE E

ESTATE TAKEN

The estate taken in the property described in Schedule C is fee simple absolute.

SCHEDULE F

ESTIMATE OF JUST COMPENSATION

The estimated just compensation for the property being taken is \$8,800.00.

SCHEDULE G**INTERESTED PARTIES**

Names and addresses of parties who have or may claim an interest in the parcels are as follows:

Party	Record reference
Unknown Heirs and/or Devisees of Bonnie Kellar Franklin (Address Unknown)	Warranty deed recorded on February 18, 1966 on page 3, in Book S-4, in official records of Hancock County, Mississippi.
Unknown Heirs and/or Devisees of A. L. Franklin a/k/a Andrew L. Franklin (Address Unknown)	Warranty deed recorded on July 28, 1983, on page 162, in Book AA-61, in official records of Hancock County, Mississippi.
Unknown Heirs and/or Devisees of Juanita Kellar Schull (Address Unknown)	Warranty deed recorded on July 28, 1983, on page 162, in Book AA-61, in official records of Hancock County, Mississippi.
Andrew Craig Franklin a/k/a/ Craig A. Franklin 1 Vintage Place Picayune, MS 39466	Warranty deed recorded on July 28, 1983, on page 162, in Book AA-61, in official records of Hancock County, Mississippi.
Janice Lynn Franklin a/k/a Janice Lynn Wylie 1111 Falcon Park Drive #5202 Katy, Texas 77494	Warranty deed recorded on July 28, 1983, on page 162, in Book AA-61, in official records of Hancock County, Mississippi.
David Mark Franklin 114 Hide-A-Way Lane Carriere, Mississippi 39426	Warranty deed recorded on July 28, 1983, on page 162, in Book AA-61, in official records of Hancock County, Mississippi.
Jacqueline E. Franklin 21784 Ridgeview Drive Saucier, MS 39574	Warranty deed recorded on July 28, 1983, on page 162, in Book AA-61, in official records of Hancock County, Mississippi.
Hancock County, Mississippi Jimmie Ladner, Jr., Tax Assessor 854 Highway 90, Suite C Bay St. Louis, Mississippi 39520	APN 084-0-30-008. Taxing authority.

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

United States of America

(b) County of Residence of First Listed Plaintiff _____
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)
Bhavna Changrani, U.S. Department of Justice, Environment and
Natural Resources Division, P.O. Box 7611 - Ben Franklin Station,
Washington, D.C. 20044, Telephone: 202-305-0304

DEFENDANTS

12.667 Acres, More or Less, Located in Hancock County, State of Mississippi; Franklin, et al.

County of Residence of First Listed Defendant Hancock
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☒ 1 U.S. Government Plaintiff
☐ 2 U.S. Government Defendant
☐ 3 Federal Question (U.S. Government Not a Party)
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT		TORTS		FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157	PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 490 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input checked="" type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act	SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	
				IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions		

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
☐ 2 Removed from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from Another District (specify)
☐ 6 Multidistrict Litigation - Transfer
☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28 U.S.C. 1358

Brief description of cause:
Eminent domain

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$

CHECK YES only if demanded in complaint:
JURY DEMAND: ☐ Yes ☒ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE _____

DOCKET NUMBER _____

DATE

08/29/2019

SIGNATURE OF ATTORNEY OF RECORD

/s/Bhavna Changrani

FOR OFFICE USE ONLY

RECEIPT # _____

AMOUNT _____

APPLYING IFP _____

JUDGE _____

MAG. JUDGE _____